The BEACON SpotLight
A Study of Constitutional Issues by Topic

Issue 35: *The Legal Tender Cases* Supreme Court Opinion of 1871

When the majority of the U.S. Supreme Court ruled in 1870 *Hepburn v. Griswold* that the 1862 Legal Tender Act was "inconsistent with the spirit of the Constitution" and thus its paper currency was actually "prohibited by the Constitution," *The Powers That Wanted To Be* quickly sprang into action to overpower the court ruling, one way or another.

Hepburn was decided 5-3, by a 9-member court, with one vacancy.[1]

1. Legislation varying the number of Supreme Court justices are:

- 1789, Sept. 24 (1 Stat. 73): The Supreme Court established with 6 justices (one Chief Justice and five associate justices).
- 1801, Feb. 13 (2 Stat. 89): 5 justices (upon "next vacancy"). Federalist President John Adams and the Federalist-controlled Congress eliminated one judicial seat on the Supreme Court, to prevent incoming Democratic-Republican President Thomas Jefferson from easily nominating a new justice, upon its first vacancy. This action was concurrent with their successful effort to create new Circuit Courts and pack them with new Federalist judges, to maintain continued Federalist relevance long after their party fell into obscurity.[2]
- 1802, Mar. 3 (2 Stat. 132): 6 justices (repealing the Feb. 13, 1801 Act). Jefferson had enough members of Congress on his side, to repeal the Federalists' 1801 efforts to stall him.

Footnote 1: cont'd.

- 1807, Feb. 24 (2 Stat. 420): 7 justices (upon creation of the 7th Circuit).
- 1837, Mar. 3 (5 Stat. 176): 9 justices (upon creation of the 8th and 9th Circuits).
- 1863, Mar. 28 (12 Stat. 794): 10 justices (upon creation of 10th Circuit).
- 1866, July 23 (14 Stat. 209): 7 justices (no vacancies filled until number of associate justices was reduced to six [plus one Chief Justice]).
- 1869, Apr. 10 (16 Stat. 44): 9 justices (adding two associate justice positions).

2. The February 13, 1801 Judiciary Act (2 Stat. 89) created 16 new Circuit Court judgeship positions (which Federalist President John Adams' filled with Federalist judges), while the February 27, 1801 D.C. Organic Act (2 Stat. 103) organized the District of Columbia and created 42 new Justice of the Peace positions (23 positions in Washington County and 19 in Alexandria County).

Incidentally, it was under the latter February 27th D.C. Organic Act where the commissions didn't get delivered to President Adams' Federalist "Midnight Judges" in Washington County, before Democratic-Republican Thomas Jefferson was sworn in as the third President the following day.

Jefferson ordered his (new) Secretary of State, James Madison, to withhold 11 of the undelivered commissions, for the judges of which Jefferson didn't approve, including one for William Marbury.

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Footnote 2: cont'd.

And, it was Marbury's denied commission that ended up serving as the basis for his federal suit against James Madison, which Chief Justice John Marshall used as Ground Zero for expanding federal powers, to begin launching unfettered federal action.

In 1803 *Marbury v. Madison*, Marshall came to rule over the case in which he was the material participant, if not actual ringleader. After all, John Marshall had served as President Adams' Secretary of State. When Adams signed the commissions for his "Midnight Judges" late in the evening on his last day of office, it was Marshall as Secretary of State who placed the federal seal thereon and then recruited his brother James to deliver them (or not deliver them, as the case may be). James Marshall didn't get the 19 commissions for Washington County Justices delivered before Jefferson was sworn in the next day.

Ignoring his conflict of interest, John Marshall finished in Court, as referee, no less, what he may well have intentionally created as Secretary of State, as one of the principal players of the case.

In *Marbury*, Marshall established the Court's supposed power of "Judicial Review," which seemingly placed judges above the Constitution, by implication of his words that said (italics added): "It is emphatically the province and duty of the Judicial Department *to say what the law is*."[3]

Because, it was not simply congressionally-enacted law which the Court would seek to "interpret," but, at least later, also words found in the Constitution itself (see, especially, his 1819 *McCulloch v. Maryland* opinion, for example).

To understand two hundred and twenty years of growing federal tyranny ultimately resting upon *Marbury* and more firmly planted by *McCulloch*, it is absolutely essential to realize that Marbury was to be given a commission, for Justice of the Peace, for the District of Columbia, under the February 27, 1801 D.C. Organic Act.

And, it is no coincidence that the February 27, 1801 D.C. Organic Act itself found its support from Article I, Section 8, Clause 17 of the U.S. Constitution.

Since the peculiar principles at odds with the bulk of the Constitution actually rest only on its highly-unusual exception—Art. I, Sec. 8, Cl. 17—then the principles of *Marbury* necessarily pertain *only to exclusive legislation properties.* Indeed, the Court may not, could not and cannot overrule the Constitution even justices swear to support, as Marshall implied by his "interpretation" of words found in the Constitution, different from their meaning that was meant at the time of ratification.

Footnote 2: cont'd.

It was and is in this special "exclusive legislation" authority where members of Congress have the inherent discretion to exercise that exclusive legislation "in all Cases whatsoever"—i.e., to do anything they desire, except those precious few things expressly prohibited them.

This standard of inherent discretion, of course, differs from the standard for allowable federal action, for direct implementation throughout the whole Union, where members of Congress may only exercise enumerated powers, using necessary and proper means.

The two opposing standards for allowable federal action—at extreme opposite ends of the allowable spectrum—follow the two different authorities discussed and detailed by the U.S. Constitution.

Throughout all the Union, all of the Constitution beyond Clause 17 details the enumerated powers members of Congress and federal officials may directly exercise using necessary and proper means.

Then, for the District Seat and other exclusive legislation lands, federal servants may do anything and everything within their inherent discretion, except those few things expressly prohibited them, under Clause 17.

Remember, for exclusive legislation properties, Congress may exercise what otherwise amounts to local actions, which are elsewhere performed by States. This doesn't run afoul with the Tenth Amendment, because Maryland's cession of land in 1791 also ceded all of its ability to govern the ceded parcel, *without reserving any powers unto itself* [so, there aren't any longer any reserved powers for the Tenth Amendment to here apply]).

Because, in D.C., governing powers are NOT DIVIDED into enumerated federal powers and reserved State powers, like all other non-exclusive lands, *but instead all governing powers are UNITED in Congress*. No powers are ever shared with any State of the Union, in D.C., like they are DIVIDED in every State (into enumerated federal powers and reserved State powers).

The peculiar principles Marshall espoused in *Marbury* at odds with the whole Constitution *thus only apply to the exclusive legislation authority for the District of Columbia*, forts, magazines, arsenals, dockyards and other needful buildings, under Article I, Section 8, Clause 17, of the U.S. Constitution.

Please see Matt Erickson's public domain book, *Two Hundred Years of Tyranny,* freely-available electronically, at www.PatriotCorps.org, for full discussion of this critical missing piece of the federal tyranny puzzle.

3. *Marbury v. Madison*, 5 U.S. 137 @ 177. 1803.

On the side in majority, voting *against* paper currency as legal tender in *Hepburn*, was Chief Justice Salmon P. Chase, who authored the opinion, joined by Associate Justices Nelson, Grier, Clifford and Field.[4]

Voting *for* paper currency as legal tender in *Hepburn*, against Chase, were Associate Justices Miller, Swayze, and Davis.

After the justices had completed their work on *Hepburn* but before the ruling was made public, colleagues helped convince Justice Robert Cooper Grier to retire (which he did, on January 31, 1870), leaving the court with two vacancies.

On the same day that *Hepburn* was made public (February 7, 1870), Republican President Ulysses S. Grant nominated William Strong and Joseph P. Bradley to the Supreme Court, later confirmed.

Thus, when two open legal tender cases made their way up for review by the Supreme Court the following year, on questions not yet fully answered, the Court's makeup was minus-one to retirement, but plus-two vacancies filled.

When both new justices voted in favor of legal tender paper currencies in the 1871 *Legal Tender Cases* opinion (the combined name for the individual lower court cases of *Knox v. Lee* and *Parker v. Davis*, which were heard and ruled upon jointly by the Supreme Court), the old 5:3 record (with a 4:3 vote for the justices yet remaining on the bench), suddenly turned into a losing hand, as the 4 remaining justices yet opposed to paper currency were suddenly outvoted by 5 justices now voting in favor of it.

The new math aligned with the new paper currency—the 5 minus 1 (4) vote lost out to 3 plus 2 (5)—without any justice changing his earlier position, as the two new justices swung the tally, supposedly overruling *Hepburn*.

The historical record—from *Hepburn v. Griswold* to *The Legal Tender Cases*—seems to reverse course on largely the same question, apparently only because of the change of personnel. Thus, this record seems to support the underlying premise that *whoever* sits on the Supreme Court gets to determine the extent of allowable federal powers. The record also seems to favor Marshall's argument that justices "say what the law is," perhaps going so far as law being "whatever 5 justices decide," nominally within their own discretion).

And, since American Presidents nominate Supreme Court justices, the latter who hold their positions during "good behaviour" (which seems to embrace a whole lot of "bad behavior"), this policy becomes concentrated on voting and elections. In other words, Democracy in Action.

But, the primary issue in our Constitutional Republic is NOT *how* the justices vote. It is not even *who* votes (as judge, in this instance). Nor is it the judge's personal, political and/or philosophical bent. Instead, the most important single question in a government of enumerated powers is the extent of that delegation of authority. The primary topic of concern in our Constitutional Republic is always and must be "what are the delegated federal powers?"

In other words, in our Republic where federal servants are given enumerated powers that may only be exercised using necessary and proper means, it matters little, at least to the people at large, *who* actually wins elections or *who* is appointed to federal office, *for the available powers do not change with a changing of the guard.*

While *The Legal Tender Cases* opinion appears to support the theory that new justices can increase federal powers on their own, thankfully, that widely-believed premise is absolutely and fundamentally false!

Patriots interested in restoring limited government and individual liberty must stop believing all the lies our political opponents tell us, and we also need to stop listening to the lies repeated to us by our well-meaning but misinformed colleagues, who fail to challenge their own falsely-accepted premises that undermine our success.

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4. Interestingly enough, Chief Justice Chase had been the chief proponent of the 1862 Legal Tender Act, when he had earlier served as Secretary of the Treasury.

That he later ruled against the Legal Tender Act as Chief Justice, that he had helped put into place as Secretary of the Treasury, with largely the same oath of office, mimics John Marshall's earlier lead, of ruling on a case where an "impartial" judge was involved in setting up the facts of the case (even as here, Chase curiously changed his earlier position).

Instead, we who fight for individual liberty and limited government must begin to challenge long-accepted misunderstandings, that favor the continuing exercise of inherent federal power, indirectly extended throughout the Union.

Our political adversaries who strive for unlimited political power may only win if we play their game by their distorted rules.

Americans must learn that our Republican Form of Government is not up for grabs every two, four or six years; nor is it ever dependent upon the political leanings of appointed personnel.

No person who exercises delegated federal powers may ever change their own powers or those of their cohorts, for direct exercise throughout the Union.

Every person who exercises federal power must swear an oath to support the Constitution (or, inferior public servants who don't individually swear such an oath necessarily work under a superior who has sworn it), which necessarily places them *inferior* to the Constitution they swear to support.

Only ratified amendments change the Constitution and allowed federal powers. And, only States as principals to the constitutional compact are empowered to ratify proposed amendments.

Given the Constitution, *everything* that appears to have changed significantly over time, outside and independent of ratified amendments, *emplaced instead by and through members of Congress and federal officials themselves,* that appears to violate these fundamental and unchangeable principles only falsely masquerades as law, because it has been fraudulently extended beyond its allowable geographic boundaries.

Patriots must start putting in an extra effort and dig deeper. And, a great place to begin that in-depth dive is with *The Legal Tender Cases* Supreme Court opinion.

Even though *Hepburn* and *The Legal Tender Cases* came to conclusions which appeared to oppose one another, after learning to read between the lines, one learns that they arrived at their respective conclusions *only by looking at different parameters.*

In other words, despite longstanding appearances, *The Legal Tender Cases* didn't actually overrule *Hepburn*, but merely operated within the Constitution's unknown exception, that allowed legal tender paper currency *only in a very specific instance.*

Therefore, *Hepburn* and *The Legal Tender Cases* may actually stand, side-by-side, without contradiction.

The Legal Tender Cases opinion really only held that paper currency could be emitted and declared a legal tender under the exclusive legislation authority of Congress for the District of Columbia, under Article I, Section 8, Clause 17 of the Constitution for the United States of America, where members of Congress may do anything and everything within their discretion, which isn't actually prohibited them.

After all, the "District" is NOT a "State," only the latter of which, is expressly prohibited from coining money, emitting bills of credit (paper currency) and making things a tender in payment of debts, beyond gold and silver coin (by Art. I, Sect. 10, Cl. 1).

In other words, when members of Congress exercise exclusive legislation powers for the District Seat, they are NOT similarly expressly prohibited from emitting bills of credit and calling them a legal tender like State governments are expressly prohibited.

Hepburn correctly ruled that members of Congress may not emit bills of credit and call them a legal tender, directly, for the whole Union. After all, emitting bills of credit and calling them a legal tender for the whole Union are not a necessary and proper means to an enumerated power, so no later court could ever rule any differently, at least until the Constitution was properly amended giving Congress that power or those means.

But, under the District Seat's exclusive legislation power, Congress may there do whatever isn't expressly prohibited them, as members exercise State-like powers, without having to follow any applicable State, State-like, or District Constitution, or even have to follow the normal parameters of the U.S. Constitution, which are meant only for the remainder of the Union (not counting exclusive legislation properties).

To throw off the artificial rule of paper tyrants, patriots must look beyond the superficial mirages that falsely appear to rule the day, where tyranny yet reigns.

Americans interested in limited government and individual liberty must quit buying into the false narrative that asserts that election winners get to steer American government in a direction of their own choosing. This Winner-Take-All scheme to overturn fundamental American principles only benefits those who cannot win any other way, because of the remainder of the Constitution (thus, the scoundrels only operate *where* they may exercise inherent discretion [which is for the District Seat, and other exclusive legislation properties]).

Instead of foolishly listening to our political adversaries frame the narrative so they may establish absolute tyranny in the Land of the Free and Home of the Brave, patriots must learn to go their own way and discover the evidence on their own.

Never forget that the available powers capable of being directly exercised throughout the Union are limited at their source, by the U.S. Constitution, regardless of who is elected to Congress or the Presidency, or who is appointed to federal office, including the judiciary.

The political views or personal preferences of election winners and appointed bureaucrats are largely irrelevant in the long-term affairs of the Republic, by design.

The Legal Tender Cases ostensibly sought to answer two questions:

> "Are the acts of Congress, known as the legal tender acts, constitutional when applied to contracts made before their passage, and secondly, are they valid as applicable to debts contracted since their enactment?"[5]

While it wasn't overly important to follow the 1862 Legal Tender Act itself that was covered in the previous issue of *The Beacon Spotlight*, it is of vital and crucial importance for patriots now to pay very strict attention to discover how these judicial scoundrels pulled off their spectacular political coup, that helped pry loose the government's purse strings, that otherwise would have remained shut, without paper currency greasing the skids for the last 160 years.

The new Associate Justices wrote the opinion of the case (Justice Strong) and the concurring opinion (Justice Bradley).

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5. *The Legal Tender Cases*, 79 U.S. 457 @ 529 (1871).

The written words of these two scoundrels should be used against them, to condemn forever their memory in the history books, for their devious deception cleared The Administrative State to grow and prosper, as unlimited funding began to transform the federal government into a massive behemoth, of insatiable power.[6]

The best place to begin inspection of *The Legal Tender Cases* is Justice Strong's masterful run-on paragraph, that discourages far too many people, from wading into its depths:

> "Here we might stop, but we will notice briefly an argument presented in support of the position that the unit of money value must possess intrinsic value. The argument is derived from assimilating the constitutional provision respecting a standard of weights and measures to that of conferring a power to coin money and regulate its value. It is said there can be no uniform standard of weights without weight, or of measure without length or space, and we are asked how anything can be made a uniform standard of value which itself has no value? This is a question foreign to the subject before us. The legal tender acts do not attempt to make paper a standard of value. We do not rest their validity upon the assertion that their emission is coinage, or any regulation of the value of money; nor do we assert that Congress may make anything which has no value money. What we do assert is, that Congress has power to enact that the government's promises to pay money shall be, for the time being, equivalent in value to the representative value determined by the coinage acts, or to multiples thereof. It is hardly correct to speak of a standard of value. The Constitution does not speak of it. It contemplates a standard for that which has gravity or extension; but value is an ideal thing. The coinage acts fix its unit as a dollar; but the gold or silver thing we call a dollar is, in no sense, a standard of a dollar. It is a representative of it. There might never have been a piece of money of the denomination of a dollar. There never was a pound sterling coined until 1815, if we except a few coins struck in the reign of Henry VIII, almost

> immediately debased, yet it has been the unit of British currency for many generations. It is, then, a mistake to regard the legal tender acts as either fixing a standard of value or regulating money values, or making that money which has no intrinsic value."[7]

It is important to break down this lengthy paragraph into separate thoughts, to analyze its most important parts and meanings.

To begin with, Justice Strong appropriately paraphrased the strict-constructionist's argument in support of the honorable position "that the unit of money value must possess intrinsic value," as he wrote:

> "The argument is derived from assimilating the constitutional provision respecting a standard of weights and measures to that of conferring a power to coin money and regulate its value.
>
> "It is said there can be no uniform standard of weights without weight, or of measure without length or space, and we are asked how anything can be made a uniform standard of value which itself has no value?"

This restatement was appropriate, to acknowledge that the justices heard the points raised by the attorneys arguing against legal tender paper currencies.

These attorneys' position argues that the Standard of Value must have objective and measurable parameters.

While value is subjective to the individual making it, that doesn't foreclose a relative ranking of his or her subjectivity, using an objective and quantifiable tool for measure.

For instance, that John Doe currently values A over B, B over C, C over D and D over E allows him to rank their relative value to him, given current conditions.

For example, he can place appropriate dollar values on given quantities, at given quality.

To relate values over time, it is helpful if those measures have stable meaning. Just as one gallon of measure, one minute of time, ten ounces of mass/weight, or one foot of length have fixed meanings over time, so too may one dollar be quite capable of fixed meaning, such as 25.8 grains of gold 9/10^{ths}-fine, for example. This statement is not asserting that this fixed measure purchases the same goods or services over time, which depend upon changing parameters.

Relative subjective valuation using an objective measure thus allows for measured comparisons and relative ranking between various goods and services.

The Legal Tender Cases ruling begins its odd journey into The Deep, Dark, Quagmire with Strong's next comment that followed his paraphrasing of the strict-constructionist's argument, as he peculiarly declared that coining money and regulating its value is:

> "a question foreign to the subject before us."[8]

It is critical to realize that the Court said that monetary matters were irrelevant factors in this court case which seemed to be all about money but wasn't.

These few words just quoted, and words that next followed, let the losing side know—if they were paying appropriate attention—that they had fought against paper currencies using the wrong premise.

The opinion continued on their theme, saying further:

> "The legal tender acts do not attempt to make paper a standard of value. We do not rest their validity upon the assertion that their emission is coinage, or any regulation of the value of money; nor do we assert that Congress may make anything which has no value money."[9]

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6. Of course, the other three Supreme Court justices who also voted in favor of legal tender paper currency equally deserve condemnation, as also the four justices who nominally voted against legal tender paper currencies but never spoke out against the ruling, exposing the deviousness of the opinion as found in this newsletter. One could add to that list all the justices that came later, and all the law professors, courtroom attorneys, and legal historians, who also never exposed the legal shenanigans of this and other horrid rulings.

If an office clerk/former truck driver can discover the information and help broadcast it, certainly all these learned men and women could have also, if they had any integrity and cared anything about liberty or justice.

7. *The Legal Tender Cases*, 79 U.S. 457 @ 552 – 553 (1871).

8. *Ibid.*

This precedent-setting case—the first Supreme Court case to uphold the constitutionality of Congress emitting a legal tender paper currency—is, of course, extremely important to both sides of the argument.

The court upholding paper currency as legal tender as an allowed power of Congress stated that their ruling was not supported by the congressional powers to coin money or regulate its value! Since the justices ignored all the attorney arguments on this topic, the attorneys were powerless to stop this dreadful power.

Note that it wasn't that the Court could not be stopped from reaching the conclusion they reached, it was that they could not be stopped by the wrong arguments which were wholly on the wrong page!

We yet have a *laissez faire* court system—a Wild-West version of a shootout at the O.K. Corral—where two sides duke it out, but where no judge is ever going to consider the points defendants need to win their case, *if they don't bring it up themselves.*

In other words, while *Hepburn* ruled that Congress could not emit paper currency and call it a legal tender under the enumerated power of coining money or regulating its value, *The Legal Tender Cases* Court purposefully looked elsewhere to support their ruling (just because judges don't help limited government proponents doesn't necessarily prevent them from "helping" the government [yes, the deck is decidedly stacked towards tyranny]).

The Court may only allow Congress to emit bills of credit and call them a tender in payment of debts where the Constitution itself allows it—under the exclusive legislation authority for D.C.

This last admission of the Court lets patriots know that they must look elsewhere for constitutional support for legal tender paper currencies, beyond Article I, Section 8, Clause 5 and follow the evidence, wherever it leads.

This last-quoted passage also directly admits that:

1. The Legal Tender Acts do not attempt to make paper "a standard of value;"
2. The Legal Tender Acts (and the notes they authorize) do not rest upon the assertions that:
   a. The emission of legal tender notes is "coinage;"
   b. The emission of legal tender notes is any "regulation of the value" of "money;"
   c. Legal tender notes have (inherent) "value;" or that
   d. Legal tender notes are "money."

Restated, due to the importance for understanding what was going on, *The Legal Tender Cases* Court acknowledged that legal tender paper currency:

1. is not "coinage;"
2. is not emitted as a "regulation of the value of money;"
3. is not "money;" and
4. does not have "value."

In case anyone doubts these conclusions, the Court also pointedly declared—in relation to the grant of authority by Art. I, Sect. 8, Cl. 5 (the power to coin money and regulate its value)—that:

> "We do not, however, rest our assertion of the power of Congress to enact legal tender laws upon this grant."[10]

And, if one is really dense, the Court further clarified:

> "It is, then, a mistake to regard the legal tender acts as either fixing a standard of value or regulating money values, or making that money which has no intrinsic value."[11]

The U.S. Supreme Court case which first upheld paper currencies as legal tender said it is a "mistake" to claim that the 1862 law or the 1871 court ruling that declared paper currency a legal tender had anything to do with fixing a Standard of Value or anything to do with regulating monetary value. The same ruling expressly denied that they were making paper currency "money," for paper currency has no intrinsic value, as is required of all constitutional money.

Justice Bradley's concurring opinion provides yet even additional clarification, if it is needed, saying:

9. *Ibid.*

10. *Ibid.*, Page 547. (1871).

11. *Ibid.*, Page 553 (1871).

> "I hold it to be *the prerogative of every government not restrained by its constitution* to anticipate its resources by the issue of exchequer bills, bills of credit, bonds, stock, or a banking apparatus. Whether those issues shall or shall not be receivable in payment of private debts *is an incidental matter in the discretion of such government unless restrained by constitutional prohibition.*
>
> "This power is entirely distinct from that of coining money and regulating the value thereof. It is not only embraced in the power to make all necessary auxiliary laws, but it is incidental to the power of borrowing money. It is often a necessary means of anticipating and realizing promptly the national resources when, perhaps, promptness is necessary to the national existence. It is not an attempt to coin money out of a valueless material, like the coinage of leather or ivory or kowrie shells. It is a pledge of the national credit. *It is a promise by the government to pay dollars; it is not an attempt to make dollars.* The standard of value is not changed. The government simply demands that its credit shall be accepted and received by public and private creditors during the *pending exigency*."[12]

Note Justice Bradley's purposeful connotations signaling virtually unlimited power:

- "the prerogative of every government not restrained by its constitution…" and
- "an incidental matter in the discretion of such government unless restrained by constitutional prohibition."

And, these passages weren't his only references to inherent power—he ominously said, a page later:

> "But it is said, why not borrow money in the ordinary way? The answer is, *the legislative department*, being the nation itself, speaking by its representatives, has a choice of methods, and *is the master of its own discretion*."[13]

It is no coincidence that Justice Bradley references inherent federal power, of essentially unlimited federal authority, limited only by express prohibition.

This authority cannot ever be reconciled with the Republican Form of Government for the whole Union, but only for exclusive legislation properties.

Realize that Justice Bradley's explicit reference to inherent governing power—where *"the legislative department...is the master of its own discretion"*—may ONLY be found within the U.S. Constitution ONLY under the exclusive legislation authority of Congress for the District Seat, and other exclusive legislation areas, used for forts, magazines, arsenals, dockyards, and other needful buildings.

Since Article I, Section 8, Clause 17 allows Congress to exercise "exclusive" legislation powers "in all Cases whatsoever" for the District Seat and other exclusive legislation federal enclaves—only in these places are all governing powers UNITED in ONE government.

Everywhere else, governing power is DIVIDED into enumerated federal powers and reserved States powers.

And, since no other clause of any Constitution guides and directs Congress when members enact exclusive legislation in all cases whatsoever, Congress must therefore make up all their own rules in all circumstances, within their own inherent discretion, when exercising this exclusive legislation power.

After all, no State, State-like, or District Constitution exists in D.C. to guide and direct Congress in their exercise of exclusive legislation powers that are similar with State powers, like State Constitutions exist, in each State, to guide and direct State governments.

These special federal enclaves were ceded to Congress by "particular States" for particular purposes.

Since the ceding State ceding a particular parcel of land also ceded the ability to govern that particular parcel to Congress so members could exercise exclusive legislation according to the requirements of the U.S. Constitution ("exclusively"), then after cession (and acceptance by Congress) *then the ceding State no longer has any governing authority whatsoever.*[14]

Members of Congress legislate "exclusively" as required by the U.S. Constitution, only after a particular State cedes its authority for a particular parcel of land and Congress accepts the land and exclusive authority.

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12. *Ibid.,* Page 560. Italics and underscore added.

13. *Ibid.* Pg. 561. Italics added.

It is not mere coincidence that Justice Bradley speaks of Congress being "the master of its own discretion." Members of Congress are political "masters" in their "own discretion" ONLY for the District Seat and other exclusive legislation areas—PERIOD!

The talk of unlimited powers, inherent discretion and the power to do whatever is not expressly prohibited ALWAYS points to the exclusive legislation powers of Congress. This unlimited authority only directly applies in the District Seat and exclusive legislation federal areas and may only be indirectly extended beyond those geographic boundaries, by devious legal deception, masterly performed, over people not realizing what is occurring!

In all other cases, members are chained and bound by the Constitution, to the exercise of enumerated powers, implemented using necessary & proper means.

Since emitting bills of credit and calling them a legal tender is NOT a "necessary and proper" means to an enumerated end, then the Constitution (still) prevents their emittance directly throughout the Union.

No court may ever change that, because no court can change or overrule the U.S. Constitution.

Justices may only help hide what is really going on, under the radar, by intentionally confusing the issue, because patriots can cure what they can understand.

While Canada, Australia, New Zealand and a dozen or so other countries also use a "dollar" as their monetary unit, those dollars are obviously NOT the same as an American dollar. Well, so too does the District of Columbia have its own "dollar," which is essentially every bit as different from the American dollar of gold and silver as Canada's dollar.

14. It should be directly stated that only one State has local governing authority over any parcel of land in the first place [never do two or more States govern the same tract of land]).

Also, it should also be said that no State Constitution ever binds Congress when members enact law within their exclusive legislation authority, in areas ceded by a particular State.

It should lastly be noted that except for D.C., ceding States sometimes reserved the express power to serve legal process in the ceded areas (the power to serve summons, etc., therein).

While members of Congress do NOT have the direct, enumerated power to emit paper currency and declare it a tender for the whole Union—as *Hepburn* correctly ruled—neither *Hepburn* nor the U.S. Constitution prohibited *The Legal Tender Cases* Court from later holding that members of Congress may emit paper currencies under the exclusive legislative authority of Clause 17.

And, that is ONLY what *The Legal Tender Cases* Court ruled, once one learns to read between the lines. That is why the Court said that the coining of money and regulating its value were foreign to the subject before the Court—because the Court upheld legal tender paper currency only under the exclusive legislation power of Congress for the District Seat, not the monetary clause (of Article I, Section 8, Clause 5).

Hepburn and *The Legal Tender Cases* looked at largely the same question—could Congress emit paper currency and declare it a tender—*simply for two DIFFERENT legal jurisdictions!*

Hepburn came to the ONLY conclusion the Supreme Court could ever come to, for the whole Union, until the enumerated powers of Congress are changed by a new amendment ratified by three-fourths of the States.

The Legal Tender Cases Court looked largely at that same question, but for the District Seat, under the exclusive legislation power of Congress under Article I, Section 8, Clause 17, in all cases whatsoever, where members may do whatever is not expressly prohibited them.

The makeup of the Court and the legal leanings of the justices ultimately did not matter, other than being of low enough moral fiber to deceive everyone by using devious and underhanded legal maneuverings.

It is crucial to realize that no judge nor set of judges ever have the power or authority to change the meaning of words and phrases found in the Constitution for direct use throughout the Union.

The scoundrels may only give words found in the Constitution a new meaning *in and for the District of Columbia,* which meanings are not fixed in any Constitution (federal, State, State-like or District).

A paper "dollar" may only be legal tender under Article I, Section 8, Clause 17 of the Constitution, for the District Seat.

Since *The Legal Tender Cases* opinion did not actually uphold paper currency as money under the monetary clause of the Constitution, just what did the justices actually rule?

Here's how they answered:

> "What we do assert is that Congress has power to enact that the government's promises to pay money shall be, for the time being, equivalent in value to the representative of value determined by the coinage acts, or to multiples thereof."[15]

This statement is largely gibberish, to help hide what was really going on, but that doesn't mean that the statement cannot be parsed out, to learn despite their intentional attempts to obfuscate what was really going on under the surface.

First, realize that the Court nominally upholding paper currency as legal tender (for the District of Columbia) calls these paper currency notes "the government's promises to pay money."

Interestingly enough, this is the same definition found in the earlier *Bronson* and *Hepburn* cases, which supposedly had opposing outcomes (helping to show, that all three cases actually treated currency uniformly, on the points that mattered).

That these three Supreme Court cases uniformly looked at paper currencies, whether they denied them as legal tender or whether they upheld them as legal tender, shows that the note's legal determination as legal tender had nothing to do with their unchanging character.

Bronson stated that "The note dollar" was a "promise to pay a coined dollar" while *Hepburn* called the paper currency notes "mere promises to pay dollars."[16]

From our earlier study of the Coinage Acts (see *The Beacon Spotlight,* Issues 29-31), readers should comfortably know that American legal tender/lawful money for direct use throughout the Union consists only of a precise amount of pure gold or pure silver, mixed with an alloy, into a proper standard of purity (the alloy added merely to minimize wear, while neither adding to nor subtracting from the coins' value, that is determined solely by pure metal weight).

By *The Legal Tender Cases'* express admission, the justices importantly did not refute this fundamental position.

The Legal Tender Cases Court only asserted and upheld, that, "for the time being:"

> "the government's promises to pay money shall be… equivalent in value to the representative value determined by the coinage acts."[17]

From this obtuse statement, one begins to understand that this 151-year-old American tradition of legal tender paper currencies rests upon a support structure so weak that it cannot be overtly admitted without directly threatening the whole kit and caboodle.

Please realize that what may be correctly diagnosed may often be, as in this case, fully cured. It is fully within our power and ability to permanently throw off legal tender paper currencies, and throw off the rest of government operating beyond the spirit of the Constitution, regardless of who wins elections or who gets appointed to any federal office.

Only by exposing to the bright light of day the intense legal deception practiced over a currently-ignorant populace may federal servants ever be stopped, for they cannot be political masters beyond the geographic confines of D.C. once we expose them as frauds.

And, that is precisely why the scoundrels have long been working so very hard, to destroy society—to get all sides to agree that the Constitution "isn't working," so they can either fundamentally alter it or start over, to legitimize their illegitimate actions, by changing the real rules, which thus far, have changed very little.

The central question to the restoration of limited powers raised by *The Legal Tender Cases* is that if the power to emit a legal tender paper currency does not rest upon this power to coin money or regulate its value, then where does that ability rest?

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15. *Ibid.*, Page 553.

16. *Bronson v. Rodes*, 74 U.S. 229 @ 251. (1869). *Hepburn v. Griswold*, 75 U.S. 603 @ 625 (1870).

17. *The Legal Tender Cases*, 79 U.S. 457 @ 553.

This newsletter argues that legal tender paper currencies are necessarily based upon Article I, Section 8, Clause 17, and the enumerated power of Congress to exercise exclusive legislation, in all cases whatsoever (while also using Article VI, Clause 2, to indirectly extend that allowed power of exclusive legislation, beyond the physical geographic boundaries of D.C.).

The next issue of *The Beacon Spotlight* will provide additional evidence, from the Court itself, helping further prove true that Clause 17 is the ultimate source of authority for legal tender paper currencies.